

The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Public Records Division

Manza Arthur
Supervisor of Records

July 31, 2024
SPR24/2173

Mr. Jonathan Gerhardson
VIA EMAIL
MA

Dear Mr. Jonathan Gerhardson:

I have received your letter appealing the response of the University of Massachusetts Amherst to your request for records.

I have directed a member of my staff, Jeffrey Gottfredsen, Esq., to review this matter. Upon completion of the review, I will advise you in writing of the disposition of this case. If in the interim you receive a satisfactory response to your request, please notify this office immediately.

Any further correspondence concerning this specific appeal should refer to the SPR case number listed under the date of this letter.

Sincerely,

A handwritten signature in black ink that reads "Manza Arthur".

Manza Arthur
Supervisor of Records

cc: Ms. Christine M. Wilda

From: [Jon Gerhardson](#)
To: [Christine Wilda](#)
Cc: [SEC-DL-PREWEB](#); [Pierce, Patrick \(SEC\)](#); [Records Administrator - UMass Amherst](#)
Subject: Re: SPR24/1723 Reconsideration Determination
Date: Wednesday, July 31, 2024 4:20:08 PM

Hello I am appealing this on th basis that UMass has no right to ask about the nature of my request, beyond determining if it if for commercial use, something we have already established this request is not. Frankly I believe UMass is simply stalling for time, or hoping I'll give up. We are nearing 4 months and still no records. Continued delay will force me to seek legal representation and ask them to argue to the judge for punitive damages.

Best,
Jon

On Tue, Jul 30, 2024 at 12:45 PM Christine Wilda <cwilda@umass.edu> wrote:

Jon,

In response to the attached determination, please clarify how you have “narrowed” the scope. Please see below.

Original Request – May 12, 2024:

A full copy of every public records request sent to the University of Massachusetts Amherst between March 12, 2024 and May 12, 2024.

By full copy I mean I expect these records will contain:

- the original request,
- all communications between the requestor and UMass,
- internal, inter-departmental, and inter-agency communications relating to the request,
- all responsive documents provided, and in cases where documents were withheld, a list of the withheld documents, the exemption cited, and an explanation for why this exemption applies, to the extent required under the public records law,
- any appeals filed, all correspondences etc as described above regarding the appeal, and the outcome of the appeal including any records released then.

Reduced Scope Request - June 24, 2024:

By “all public records requests” I mean those made in writing via the University’s public records portal, or by electronic, first class, or certified mail to any RAO of the

University of Massachusetts Amherst, or any electronic mail sent to another employee of the University who then forwarded it to the RAO on behalf of the requestor.

For each public records request, I seek the following:

- the original request,
- all communications between the requestor and UMass,
- internal, inter-departmental, and inter-agency communications relating to the request,
- all responsive documents provided, and in cases where documents were withheld, a list of the withheld documents, the exemption cited, and an explanation for why this exemption applies, to the extent required under the public records law,
- any appeals filed, all correspondences etc. as described above regarding the appeal, and the outcome of the appeal including any records released then.

The only difference is in the highlighted language which mean the same, just further detailed. Please clarify.

Thanks,

Christine

=====

Christine M. Wilda

Associate Chancellor for Compliance

UMASS Amherst

340 Whitmore Building

Amherst, MA 01003

Ph: 413-545-2148

Fax: 413-545-2114

cwilda@umass.edu

From: Pierce, Patrick (SEC) <Patrick.Pierce@sec.state.ma.us>
Sent: Friday, July 26, 2024 1:26 PM
To: jon.gerhardson@gmail.com; Christine Wilda <cwilda@umass.edu>; Records Administrator - UMass Amherst <recordsadmin@umass.edu>
Cc: SEC-DL-PREWEB <SEC-DL-PREWEB@sec.state.ma.us>
Subject: SPR24/1723 Reconsideration Determination

Good Afternoon,

Please be aware, the Supervisor of Records has issued a reconsideration determination relating to an appeal in which you were involved. This reconsideration determination is attached and available online at:
<http://www.sec.state.ma.us/AppealsWeb/AppealsStatus.aspx>.

If you have any questions, please contact the Public Records Division at 617-727-2832 or pre@sec.state.ma.us.

Thank you,

Patrick Pierce (He/Him/His)

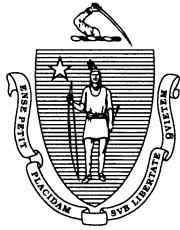
Office of the Secretary of the Commonwealth

Public Records Division

One Ashburton Place, Room 1719

Boston, MA, 02108

617-727-2832



The Commonwealth of Massachusetts

William Francis Galvin, Secretary of the Commonwealth
Public Records Division

Manza Arthur
Supervisor of Records

July 26, 2024
SPR24/1723

Christine M. Wilda
Associate Chancellor for Compliance
University of Massachusetts, Amherst
340 Whitmore Building
Amherst, MA 01003

Dear Ms. Wilda:

I have received the petition of Jonathan Gerhardson requesting reconsideration of my June 24, 2024 determination pertaining to a request to the University of Massachusetts, Amherst (University). See G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1). On May 12, 2024, Mr. Gerhardson requested “[a] full copy of every public records request sent to the University of Massachusetts Amherst between March 12, 2024 and May 12, 2024.” Additionally, he specified the following:

By full copy I mean I expect these records will contain:

- [1.] the original request,
- [2.] all communications between the requestor and UMass,
- [3.] internal, inter-departmental, and inter-agency communications relating to the request,
- [4.] all responsive documents provided, and in cases where documents were withheld, a list of the withheld documents, the exemption cited, and an explanation for why this exemption applies, to the extent required under the public records law,
- [5.] any appeals filed, all correspondences etc as described above regarding the appeal, and the outcome of the appeal including any records released then.

Previous Appeals

This request was the subject of previous appeals. See SPR24/1614 Determination of the Supervisor of Records (June 7, 2024) and SPR24/1614 Determination of the Supervisor of Records (June 24, 2024). In my June 24th determination, I found that the basis of Mr. Gerhardson’s appeal was unclear. In an email to this office on July 5, 2024, Mr. Gerhardson

requests that I reconsider my previous determination.

The Public Records Law

The Public Records Law strongly favors disclosure by creating a presumption that all governmental records are public records. G. L. c. 66, § 10A(d); 950 C.M.R. 32.03(4). “Public records” is broadly defined to include all documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency or municipality of the Commonwealth, unless falling within a statutory exemption. G. L. c. 4, § 7(26).

It is the burden of the records custodian to demonstrate the application of an exemption in order to withhold a requested record. G. L. c. 66, § 10(b)(iv); 950 C.M.R. 32.06(3); see also Dist. Attorney for the Norfolk Dist. v. Flatley, 419 Mass. 507, 511 (1995) (custodian has the burden of establishing the applicability of an exemption). To meet the specificity requirement a custodian must not only cite an exemption, but must also state why the exemption applies to the withheld or redacted portion of the responsive record.

Reconsideration Request

In his June 24, 2024 request for reconsideration, Mr. Gerhardson states the following:

I do not think it is proper to ask me to narrow my request based on information the University knows to be faulty and incomplete.

...
It's UMass's responsibility to identify responsive records not at their leisure, but within 10 business days of receiving a public records request.

...
[T]he RAO seems to be asking that I narrow the scope of my request to avoid having a fee assessed, but I do not believe the University may assess any fees, as it failed to respond to my original request within 10 business days (950 CMR 32.06 (2) (c)). Even if this were not the case, no good faith estimate of fees has been provided.

Additionally, in his June 24th request for reconsideration, Mr. Gerhardson provides the following modification to his request:

As a show of good faith, I am willing to narrow the scope of my request as such: By “all public records requests” I mean those made in writing via the University’s public records portal, or by electronic, first class, or certified mail to any RAO of the University of Massachusetts Amherst, or any electronic mail sent to another employee of the University who then forwarded it to the RAO on behalf of the requestor.

For each public records request, I seek the following:
-the original request,

- all communications between the requestor and UMass,
- internal, inter-departmental, and inter-agency communications relating to the request,
- all responsive documents provided, and in cases where documents were withheld, a list of the withheld documents, the exemption cited, and an explanation for why this exemption applies, to the extent required under the public records law,
- any appeals filed, all correspondences etc as described above regarding the appeal, and the outcome of the appeal including any records released then.

In light of Mr. Gerhardson's willingness to modify the scope of his request, this office encourages Mr. Gerhardson and the University to continue to communicate directly in order to facilitate providing records more efficiently and affordably. See G. L. c. 66, § 10(b)(vii) (an agency shall suggest a reasonable modification of the scope of the request or offer to assist the requestor to modify the scope of the request if doing so would enable the agency to produce the records sought more efficiently and affordably).

Conclusion

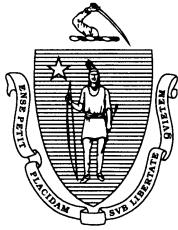
Accordingly, the University is ordered to provide Mr. Gerhardson with a response to the modified June 24th request in accordance with the Public Records Law, its Regulations and this order within ten business days. It is preferable to send an electronic copy of the response to this office at pre@sec.state.ma.us. Mr. Gerhardson may appeal the substantive nature of the University's response within ninety days. See 950 C.M.R. 32.08(1).

Sincerely,



Manza Arthur
Supervisor of Records

cc: Jonathan Gerhardson



The Commonwealth of Massachusetts

William Francis Galvin, Secretary of the Commonwealth
Public Records Division

Manza Arthur
Supervisor of Records

June 24, 2024
SPR24/1723

Christine M. Wilda
Associate Chancellor for Compliance
University of Massachusetts Amherst
340 Whitmore Building
Amherst, MA 01003

Dear Ms. Wilda:

I have received the petition of Jonathan Gerhardson appealing the response of the University of Massachusetts, Amherst (University) to a request for public records. See G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1). On May 12, 2024, Mr. Gerhardson requested “[a] full copy of every public records request sent to the University of Massachusetts Amherst between March 12, 2024 and May 12, 2024.” Additionally, he specified the following:

By full copy I mean I expect these records will contain:

- [1.] the original request,
- [2.] all communications between the requestor and UMass,
- [3.] internal, inter-departmental, and inter-agency communications relating to the request,
- [4.] all responsive documents provided, and in cases where documents were withheld, a list of the withheld documents, the exemption cited, and an explanation for why this exemption applies, to the extent required under the public records law,
- [5.] any appeals filed, all correspondences etc as described above regarding the appeal, and the outcome of the appeal including any records released then.

Previous Appeal

This request was the subject of a previous appeal. See SPR24/1614 Determination of the Supervisor of Records (June 7, 2024). In my June 7th determination, I closed SPR24/1614 in light of the University providing a response on May 30, 2024. Unsatisfied with the University’s response, Mr. Gerhardson appealed, and this case was opened as a result.

The Public Records Law

The Public Records Law strongly favors disclosure by creating a presumption that all governmental records are public records. G. L. c. 66, § 10A(d); 950 C.M.R. 32.03(4). “Public records” is broadly defined to include all documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency or municipality of the Commonwealth, unless falling within a statutory exemption. G. L. c. 4, § 7(26).

It is the burden of the records custodian to demonstrate the application of an exemption in order to withhold a requested record. G. L. c. 66, § 10(b)(iv); 950 C.M.R. 32.06(3); see also Dist. Attorney for the Norfolk Dist. v. Flatley, 419 Mass. 507, 511 (1995) (custodian has the burden of establishing the applicability of an exemption). To meet the specificity requirement a custodian must not only cite an exemption, but must also state why the exemption applies to the withheld or redacted portion of the responsive record.

If there are any fees associated with a response, a written good faith estimate must be provided. G. L. c. 66, § 10(b)(viii); see also 950 C.M.R. 32.07(2). Once fees are paid, a records custodian must provide the responsive records.

Current Appeal

In his appeal petition, Mr. Gerhardson contends that “their response to [his] request was incomplete.”

The University’s May 30th Response

In its May 30, 2024 response, the University provides a responsive spreadsheet, and states the following:

Public records requests are handled by many different people depending on the department involved. Understanding that your request included all correspondence, we respectfully ask that you identify the specific requests that you would like further records on.

In its response, the University is seeking clarification regarding the scope of Mr. Gerhardson’s request. Please be advised that it is valid for the custodian of records to suggest a “reasonable modification of the scope of the request or offer to assist the requestor to modify the scope of the request if doing so would enable the agency or municipality to produce records sought more efficiently and affordably.” See G. L. c. 66, § 10(b)(vii). Given the expansiveness of his request, Mr. Gerhardson is encouraged to provide the University with the needed clarification regarding the records referenced in the University’s response. G. L. c. 66, § 10(a)(i) (the request must reasonably describe the public records sought).

Based on the foregoing, it is unclear what the basis of Mr. Gerhardson’s appeal is. Mr.

Gerhardson is advised that all petitions for appeal “shall specifically describe the nature of the requestor’s objections to the response or failure to timely respond.” 950 C.M.R. 32.08(l)(f).

Conclusion

Accordingly, I will consider this administrative appeal closed. If Mr. Gerhardson is not satisfied with the resolution of this administrative appeal, please be advised that this office shares jurisdiction with the Superior Court of the Commonwealth. See G. L. c. 66, §§ 10(b)(ix), 10A(c) (pursuing administrative appeal does not limit availability of judicial remedies).

Sincerely,



Manza Arthur
Supervisor of Records

cc: Jonathan Gerhardson



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Public Records Division

Manza Arthur
Supervisor of Records

June 10, 2024
SPR24/1723

Jonathan Gerhardson
VIA EMAIL

Dear Mr. Gerhardson:

I have received your letter appealing the response of the University of Massachusetts Amherst to your request for records.

I have directed a member of my staff, Jeffrey Gottfredsen, Esq., to review this matter. Upon completion of the review, I will advise you in writing of the disposition of this case. If in the interim you receive a satisfactory response to your request, please notify this office immediately.

Any further correspondence concerning this specific appeal should refer to the SPR case number listed under the date of this letter.

Sincerely,

A handwritten signature in black ink that reads "Manza Arthur".

Manza Arthur
Supervisor of Records

cc: Christine Wilda

From: [Jon Gerhardson](#)
To: [Chan, Benjamin \(SEC\)](#)
Cc: [cwilda@umass.edu](#); [recordsadmin@umass.edu](#); [SEC-DL-PREWEB](#)
Subject: Re: Determination - SPR24/1614
Date: Friday, June 7, 2024 6:20:51 PM

Hello,

Yes I am appealing the substance of the University's response. By their own admission, their response to my request was incomplete. Please let me know if you'd like me to explain in further detail why I remain dissatisfied with the University's response.

Best,
Jonathan Gerhardson

On Fri, Jun 7, 2024 at 3:59 PM Chan, Benjamin (SEC) <Benjamin.Chan@sec.state.ma.us> wrote:

Good Afternoon,

Please be aware, the Supervisor of Records has issued a determination relating to an appeal in which you were involved. This determination is attached and available online at:
<http://www.sec.state.ma.us/AppealsWeb/AppealsStatus.aspx>.

If you have any questions, please contact the Public Records Division at 617-727-2832 or pre@sec.state.ma.us.

Very Respectfully,

Benjamin

Benjamin Chan (he/him/his)

Senior Legal Clerk

Office of the Secretary of the Commonwealth

Public Records Division

One Ashburton Place, Room 1719

Boston, MA 02108

617-727-2832

From: [Christine Wilda](#)
To: jon.gerhardson@gmail.com
Cc: [Manning, Michael \(SEC\)](#); [SEC-DL-PREWEB](#)
Subject: FW: PUBLIC RECORD REQUEST: All public records requests made in the past 60 days
Attachments: [SPR24-1614.pdf](#)
[public-records-amherst-March-12-May-12-2024.xlsx](#)

Jon,

I am in receipt of your records request as detailed below and appeal attached. I apologize for not having responded earlier but I was having technical difficulties accessing the records you are requesting. Attached is a report from our Public Records Request database which is populated when requests are submitted through our online portal, which can be accessed here: <https://www.umass.edu/records/>. Requests that come in from outside the portal, like yours, are manually input periodically and therefore may not yet be included in the file attached. We also have to manually update the status of requests which means this report also may not reflect actuality. At the end of each calendar year, we make sure all requests are accurately reflected in the database and reported to the state in accordance with the law.

Public records requests are handled by many different people depending on the department involved. Understanding that your request included all correspondence, we respectfully ask that you identify the specific requests that you would like further records on.

Regards,
Christine

=====

Christine M. Wilda
Associate Chancellor for Compliance
UMASS Amherst
340 Whitmore Building
Amherst, MA 01003
Ph: 413-545-2148
Fax: 413-545-2114
cwilda@umass.edu

From: Jon Gerhardson <jon.gerhardson@gmail.com>
Sent: Sunday, May 12, 2024 6:31 AM
To: Records Administrator - UMass Amherst <recordsadmin@umass.edu>
Subject: PUBLIC RECORD REQUEST: All public records requests made in the past 60 days

You don't often get email from jon.gerhardson@gmail.com. [Learn why this is important](#)

Christine Wilda,

Hello, I hope you are having a nice day.

This is a public records request under MA law. Please respond within 10 business days. This request is noncommercial in nature and thus I kindly request that you waive any associated fees to fulfill this request, as has been strongly advised by The

Secretary of the Commonwealth.

I am seeking the following:

A full copy of every public records request sent to the University of Massachusetts Amherst between March 12, 2024 and May 12, 2024.

By full copy I mean I expect these records will contain:

- the original request,
- all communications between the requestor and UMass,
- internal, inter-departmental, and inter-agency communications relating to the request,
- all responsive documents provided, and in cases where documents were withheld, a list of the withheld documents, the exemption cited, and an explanation for why this exemption applies, to the extent required under the public records law,
- any appeals filed, all correspondences etc as described above regarding the appeal, and the outcome of the appeal including any records released then.

Please provide these records in a digital format delivered by email attachment to jon.gerhardson@gmail.com, direct download link, or CD-ROM.

Thank you for your help in this matter.

Best,
Jonarhan Gerhardson



The Commonwealth of Massachusetts

William Francis Galvin, Secretary of the Commonwealth
Public Records Division

Manza Arthur
Supervisor of Records

June 7, 2024
SPR24/1614

Christine M. Wilda
Associate Chancellor for Compliance
University of Massachusetts Amherst
340 Whitmore Building
Amherst, MA 01003

Dear Ms. Wilda:

I have received the petition of Jonathan Gerhardson appealing the nonresponse of the University of Massachusetts – Amherst (University) to a request for public records. See G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1). On May 12, 2024, Mr. Gerhardson requested “[a] full copy of every public records request sent to the University of Massachusetts Amherst between March 12, 2024 and May 12, 2024”

- [1.] the original request
- [2.] all communications between the requestor and UMass
- [3.] internal, inter-departmental, and inter-agency communications relating to the request
- [4.] all responsive documents provided, and in cases where documents were withheld, a list of the withheld documents, the exemption cited, and an explanation for why this exemption applies, to the extent required under the public records law
- [5.] any appeals filed, all correspondences etc as described above regarding the appeal, and the outcome of the appeal including any records released then.

Claiming to not yet have received responsive records, Mr. Gerhardson petitioned this office and this appeal, SPR24/1614, was opened as a result.

Subsequently, I learned that the University provided Mr. Gerhardson with a response on May 30, 2024. Where this appeal was opened as a result of the Department’s lack of a written response, I will now consider this administrative appeal closed. Mr. Gerhardson may appeal the substantive nature of the University’s response within ninety (90) days. See 950 C.M.R. 32.08(1).

Christine M. Wilda
Page 2
June 7, 2024

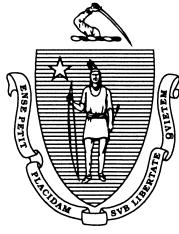
SPR24/1614

Sincerely,

A handwritten signature in black ink, appearing to read "Manza Arthur".

Manza Arthur
Supervisor of Records

cc: Jonathan Gerhardson



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Public Records Division

Manza Arthur
Supervisor of Records

May 28, 2024
SPR24/1614

Jonathan Gerhardson
VIA EMAIL

Dear Mr. Gerhardson:

I have received your letter appealing the response of the University of Massachusetts Amherst to your request for records.

I have directed a member of my staff, Michael Manning, to review this matter. Upon completion of the review, I will advise you in writing of the disposition of this case. If in the interim you receive a satisfactory response to your request, please notify this office immediately.

Any further correspondence concerning this specific appeal should refer to the SPR case number listed under the date of this letter.

Sincerely,

A handwritten signature in cursive script that reads "Manza Arthur".

Manza Arthur
Supervisor of Records

cc: Christine Wilda

From: [Jon Gerhardson](#)
To: [SEC-DL-PREWEB](#)
Subject: Appeal request - UMass Amherst "All public records requests made in the past 60 days"
Date: Tuesday, May 28, 2024 6:35:37 AM
Attachments: [PUBLIC RECORD REQUEST All public records requests made in the past 60 days.eml.msg](#)

Dear Supervisor of records.

On May 12 I emailed Christina Wilda [recordsadmin@umass.edu] asking for the records listed below. May 12 was a Sunday, but considering that and that Monday May 27 is a holiday, it has still been 10 full business days since my request, and I have yet to receive even an acknowledgement of receipt.

Given that an RAO must respond to a request within 10 business days, I humbly ask for your assistance in this matter. I have attached my original email, and listed the request I made below.

Thank you for your assistance.

Best,
Jonathan Gerhardson

Original request (.eml attached):

///

A full copy of every public records request sent to the University of Massachusetts Amherst between March 12, 2024 and May 12, 2024.

By full copy I mean I expect these records will contain:

- the original request,
- all communications between the requestor and UMass,
- internal, inter-departmental, and inter-agency communications relating to the request,
- all responsive documents provided, and in cases where documents were withheld, a list of the withheld documents, the exemption cited, and an explanation for why this exemption applies, to the extent required under the public records law,
- any appeals filed, all correspondences etc as described above regarding the appeal, and the outcome of the appeal including any records released then.

///

From: [Jon Gerhardson](#)
To: recordsadmin@umass.edu
Subject: PUBLIC RECORD REQUEST: All public records requests made in the past 60 days

Christine Wilda,

Hello, I hope you are having a nice day.

This is a public records request under MA law. Please respond within 10 business days. This request is noncommercial in nature and thus I kindly request that you waive any associated fees to fulfill this request, as has been strongly advised by The Secretary of the Commonwealth.

I am seeking the following:

A full copy of every public records request sent to the University of Massachusetts Amherst between March 12, 2024 and May 12, 2024.

By full copy I mean I expect these records will contain:

- the original request,
- all communications between the requestor and UMass,
- internal, inter-departmental, and inter-agency communications relating to the request,
- all responsive documents provided, and in cases where documents were withheld, a list of the withheld documents, the exemption cited, and an explanation for why this exemption applies, to the extent required under the public records law,
- any appeals filed, all correspondences etc as described above regarding the appeal, and the outcome of the appeal including any records released then.

Please provide these records in a digital format delivered by email attachment to jon.gerhardson@gmail.com, direct download link, or CD-ROM.

Thank you for your help in this matter.

Best,
Jonarhan Gerhardson